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2. PLEADING—*Declaration—Exemplary damages—How charged.* Exemplary damages need not be claimed *eo nomine* in the declaration. It is sufficient if the facts averred warrant the finding of such damages and are stated with sufficient distinctness to inform the defendant of the nature of the charge he is required to meet.

3. PLEADING—*Negligence—Exemplary damages—How claimed in declaration.* A charge in a declaration against an electric street railway company that it so carelessly and negligently constructed and maintained its tracks and wires, and so carelessly and negligently failed to keep them in repair as to permit the escape of electricity by which the plaintiff was directly injured, describing the manner and extent of the injury, is sufficient to warrant the introduction of evidence tending to show such negligence on the part of the company at the time of, and immediately preceding for several months, the injuries to the plaintiff as would justify the finding of exemplary or punitive damages.

4. DAMAGES—*Mental anguish—Excessive verdict.* In an action to recover damages for a physical injury inflicted on the plaintiff, the jury may consider such inconvenience, discomfort and mental suffering as might have been entailed upon him by the injuries, and also his consequent disability. Under the evidence in this case, a verdict for \$550 cannot be regarded as excessive, and there is nothing to warrant the conclusion that the jury were influenced by partiality or prejudice or any mistaken view of the evidence.

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RICHMOND, PETERSBURG & CAROLINA RAILROAD CO. v. CHAMBLIN & SCOTT.—Decided at Wytheville, June 12, 1902.—*Keith, P.*

1. EMINENT DOMAIN—*Elements of damage.* While, in condemnation proceedings, no damages can be allowed for injuries to the trade or business of the land owner, it is proper to consider the uses of the land for all purposes, and particularly the uses to which the owner has applied it, and also all the facts and circumstances likely to enter into the value of the land. Injury to access and increase of difficulty and costs of handling freight on the residue of the land are proper elements of damage to be considered.

2. APPEAL AND ERROR—*Harmless error.* A plaintiff in error cannot assign as error a judgment which is not to his prejudice.

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ANDERSON v. MOSSY CREEK WOOLEN MILLS CO.—Decided at Wytheville, June 19, 1902.—*Harrison, J.*

1. CHANCERY PRACTICE—*Multifariousness—Common interest.* Any number of creditors may unite in one suit to set aside a deed made in fraud of their rights, although their claims are distinct and separate.

2. FRAUDULENT CONVEYANCES—*Notice to grantee.* In order to charge a grantee with knowledge of the fraud of his grantor, it is sufficient to show that the grantee had knowledge of facts and circumstances which were naturally and justly calculated to excite suspicion in the minds of a person of ordinary care and prudence, and which would naturally cause him to pause and enquire before consummating the transaction, and that such enquiry would have necessarily led to the discovery of the facts from which the law imputes fraud to the grantor.

3. APPEAL AND ERROR—*Record—Papers not before trial court.* This court cannot consider papers that were not before the trial court at the time its decree was entered, and were filed with the papers of the cause, without authority, after the adjournment of the term at which the decree appealed from was entered.

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BRANCH V. COMMONWEALTH.—Decided at Wytheville, June 19, 1902.—*Cardwell, J:*

The possession of goods recently stolen is *prima facie* evidence that the person found in possession is the thief, but not that he is guilty of burglary, where the goods were obtained by burglary, unless it appears that he could only have gotten them by taking them from the house feloniously entered. If, however, the accused refuse to give any account, or give a false account, of how he came into possession of the goods, or if other culpatory facts be proved, he may be found guilty of the burglary.

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WESTERN UNION TELEGRAPH CO. V. REYNOLDS.—Decided at Wytheville, June 19, 1902.—*Whittle, J:*

1. TELEGRAPH COMPANIES—*Interstate commerce—Domestic messages.* Where the initial and terminal points of a telegram are both in the same State, and it is transmitted over the wires of the same company, and concerns only citizens of the same State, the message is a domestic message, and its character as such is not affected by the circumstance that the line passes in part over the territory of another State, or that the company has established a relay office in such other State. The contract for the transmission of such a message is entire, and possesses no element of interstate commerce.

2. APPEAL AND ERROR—*Constitutionality of statute.* When the constitutionality of an Act of Assembly has been determined by this court the question ceases to be debatable, and does not furnish ground for the jurisdiction of the court in cases thereafter arising.

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BLANCHARD V. CITY OF BRISTOL.—Decided at Wytheville, June 26, 1902.—*Whittle, J:*

1. MUNICIPAL CORPORATIONS—*License taxes—Penalties—City of Bristol.* The city of Bristol has the power, both under the general law (Code, sec. 1040), and under its charter, to impose a license tax on lawyers; and the power to impose fines and penalties for a failure to pay a license tax is not only an incident of the power to levy the tax, but, in the case at bar, is expressly conferred by the charter of the city. Acts 1899–1900, p. 639.

2. MUNICIPAL CORPORATIONS—*Ordinances—Enforcement—Prescribed method.* Where the charter of a municipal corporation prescribes the manner in which its by-laws and ordinances are to be enforced, that method, as a general rule, is exclusive and must be pursued.